

Criminal Justice Committee
Wednesday 28 October 2026
8th Meeting, 2026 (Session 7)

Note by the Clerk on the First-tier Tribunal for Scotland (Transfer of Functions and Members of the Police Appeals Tribunal) Amendment Regulations 2026 [draft]

Overview

1. At this meeting, the Committee will take evidence from the Cabinet Secretary for Justice and officials on the draft First-tier Tribunal for Scotland (Transfer of Functions and Members of the Police Appeals Tribunal) Amendment Regulations 2026 before debating a motion in the name of the Cabinet Secretary inviting the Committee to recommend approval of the instrument.
2. This is a draft Scottish Statutory Instrument (SSI), which requires approval by resolution of the Parliament before it can become law. More information about the instrument is summarised below:

Title of instrument: [The First-tier Tribunal for Scotland \(Transfer of Functions and Members of the Police Appeals Tribunal\) Amendment Regulations 2026](#) [draft]

Laid under: Section 28(2), (6) and (7) of the [Tribunals \(Scotland\) Act 2014](#)

Laid on: 17 September 2026

Procedure: Affirmative

Lead committee to report by: 11 November 2026

Commencement: If approved, the instrument comes into force on 26 November 2026

Procedure

3. Under the affirmative procedure, an instrument must be laid in draft and cannot be made (or come into force) unless it is approved by resolution of the Parliament.
4. Once laid, the instrument is referred to:
 - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
 - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.

5. The lead committee, taking account of any recommendations made by the DPLR Committee (or any other committee), must report within 40 days of the instrument being laid.
6. The normal practice is to have two agenda items when an affirmative instrument is considered by the lead committee:
 - an evidence session with the Minister and officials, followed by
 - a formal debate on a motion, lodged by the Minister, inviting the lead committee to recommend approval of the instrument.
7. Only MSPs may participate in the debate, which may not last for more than 90 minutes. If there is a division on the motion, only committee members may vote. If the motion is agreed to, it is for the Chamber to decide, at a later date, whether to approve the instrument

Delegated Powers and Law Reform Committee consideration

8. The DPLR Committee considered the instrument on 29 September 2026 and reported on it in its [8th Report, 2026](#). The DPLR Committee made no recommendations in relation to the instrument.

Purpose of the instrument

9. These Regulations make a consequential amendment (of Regulations¹ made in 2025 that modify the Police and Fire Reform (Scotland) Act 2012) to ensure that a new right of appeal for senior police officers introduced by the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025 operates as intended following the transfer of the functions of the Police Appeals Tribunal to the First-tier Tribunal for Scotland and the subsequent abolition of the Police Appeals Tribunal. Without this amendment, the new appeal right would refer to the Police Appeals Tribunal, which no longer exists, rather than the First-tier Tribunal for Scotland.
10. The new right of appeal is being brought into force (on 26 November 2026) through the [Police \(Ethics, Conduct and Scrutiny\) \(Scotland\) Act 2025 \(Commencement No. 2 and Transitional Provision\) Regulations 2026](#).²
11. Together, these instruments implement provisions already approved by the Scottish Parliament through the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025.
12. The Policy Note accompanying the instrument is included in the annexe. It includes a summary of consultation undertaken on the instrument and the

¹ The First-tier Tribunal for Scotland (Transfer of Functions and Members of the Police Appeals Tribunal) Regulations 2025

² These commencement regulations have been laid before the Parliament but are not subject to any Parliamentary procedure and have not been directly scrutinised by the Committee.

anticipated financial effects. The following impact assessment has been carried out:

- [Draft Child Rights and Wellbeing Impact Assessment](#)

Report

13. A draft report has been pre-prepared and is circulated separately, as a private paper, for consideration later in the meeting.

Clerks to the Committee
October 2026

Annexe: Scottish Government Policy Note

POLICY NOTE

THE FIRST-TIER TRIBUNAL FOR SCOTLAND (TRANSFER OF FUNCTIONS AND MEMBERS OF THE POLICE APPEALS TRIBUNAL) AMENDMENT REGULATIONS 2026

SSI 2026/XXX

The above instrument was made in exercise of the powers conferred by section 28(2), (6) and (7) of the Tribunals (Scotland) Act 2014. The instrument is subject to affirmative procedure.

Summary Box

These Regulations make a consequential amendment to ensure that a new right of appeal for senior police officers introduced by the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025 operates as intended following the transfer of the functions of the Police Appeals Tribunal to the First-tier Tribunal for Scotland and the subsequent abolition of the Police Appeals Tribunal.

Policy Objectives

1. The First-tier Tribunal for Scotland (Transfer of Functions and Members of the Police Appeals Tribunal) Regulations 2025 ("the 2025 Regulations") transferred the functions and members of the Police Appeals Tribunal ("PAT") to the First-tier Tribunal for Scotland and abolished the PAT.
2. Section 10 of the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025 ("the 2025 Act") amends section 56 of the Police and Fire Reform (Scotland) Act 2012 by inserting a new section 56(1A). That provision creates a right of appeal for senior officers against disciplinary action, other than dismissal or demotion, and provides for such appeals to be made to the PAT.
3. Section 10 comes into force on 26 November 2026. The functions of the PAT having been transferred to the First-tier Tribunal by the 2025 Regulations, and the PAT having been abolished, the new right of appeal can only be to the First-tier Tribunal and not the PAT. Accordingly, the reference to the PAT in section 56(1A) requires to be amended so that appeals are made to the First-tier Tribunal.
4. These Regulations make that consequential amendment. They do not create new appeal rights, remove existing rights, or alter tribunal procedures. Their purpose is solely to ensure that the new appeal right introduced by section 10 of the 2025 Act can be exercised as intended.
5. UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

6. In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the First-Tier Tribunal For Scotland (Transfer of Functions and Members of the Police Appeals Tribunal) Amendment Regulations 2026 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

7. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

8. Whilst no formal consultation requirements apply, the Scottish Ministers have consulted and shared a draft of the Regulations informally with relevant stakeholder and in particular the Scottish Courts and Tribunal Services. Scottish Ministers have considered the representations made.

Impact Assessments

9. A Child Rights and Wellbeing Impact Assessment has been completed for these Regulations and is attached. It identified no children's impact issues.

Financial Effects

10. The Cabinet Secretary for Justice confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Safer Communities Directorate

September 2026